

## MEMORANDUM

Agenda Item No. 11(A)(19)

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**TO:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

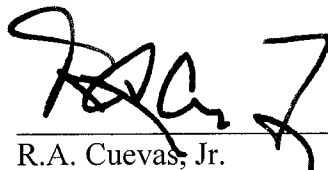
**DATE:** June 26, 2007

**FROM:** R.A. Cuevas, Jr.  
Acting County Attorney

**SUBJECT:** Resolution approving housing  
and library project by  
Villa Aurora, Inc. (Carrfour  
Supportive Housing, Inc.)

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The accompanying resolution was prepared and placed on the agenda at the request of  
Chairman Bruno A. Barreiro.

  
\_\_\_\_\_  
R.A. Cuevas, Jr.  
Acting County Attorney

RAC/bw

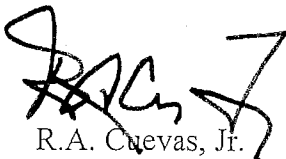


# MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

DATE: July 10, 2007

FROM:   
R.A. Cuevas, Jr.  
Acting County Attorney

SUBJECT: Agenda Item No. 11(A)(19)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☒ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(19)

7-10-07

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING THE AMENDED AND RESTATED LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY, LESSOR, AND LESSEE, VILLA AURORA, INC., A FLORIDA-NOT-FOR PROFIT CORPORATION (A SINGLE ASSET AFFILIATE OF CARRFOUR SUPPORTIVE HOUSING, INC, A FLORIDA NOT-FOR-PROFIT CORPORATION) FOR THE PROVISION OF AFFORDABLE HOUSING, HOUSING FOR THE FORMERLY HOMELESS, AND SPACE FOR THE HISPANIC BRANCH OF THE MIAMI-DADE PUBLIC LIBRARY SYSTEM; AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE SUCH LEASE AGREEMENT WHICH MODIFIES PREVIOUSLY APPROVED LEASE AGREEMENTS PURSUANT TO COUNTY RESOLUTIONS R-395-05, R-1060-01 AND R-267-01 TO MAKE AMENDMENTS IN CONNECTION WITH THE REQUIREMENTS OF THE TAX CREDIT FINANCING WHICH IS PROVIDING FUNDING FOR PORTIONS OF THIS PROJECT, AND AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE ALL CONTRACTS, AGREEMENTS, AMENDMENTS, ASSIGNMENTS, CERTIFICATIONS, SUB-SUBLEASES, AND EXTENSIONS CONTEMPLATED IN AND BY THE LEASE, AND TO EXERCISE THE CANCELLATION PROVISIONS CONTAINED THEREIN

**WHEREAS**, the Board has approved a lease agreement and amendments thereto with Villa Aurora, Inc. (a Florida not-for-profit-corporation which is a single asset affiliate of Carrfour Supportive Housing, a Florida not-for-profit corporation) for property at 1398 S.S. 1<sup>st</sup> Street, Miami, Florida, pursuant to County Resolution Nos. R- R-395-05, R-1060-01 and R-267-01; and

**WHEREAS**, by virtue of the existing Lease Agreement, Carrfour/Villa Aurora has leased the aforementioned property, has demolished the unoccupied structure thereon, and has agreed to construct a new structure on the property, which will include a ground floor space to

house the Hispanic Branch of the Miami-Dade public Library system; Seventy-Six (76) residential units, consisting of 25 units of permanent supportive housing and 14 transitional housing units for formerly homeless persons, and 37 affordable housing units; and associated parking, office space, and common areas; and

**WHEREAS**, in connection with financing of the residential units with Tax Credits issued by the Florida Housing Finance Corporation, certain changes have been requested by the financial underwriters of the housing portion of this project; and

**WHEREAS**, the proposed amended lease, if approved will make those changes required by the financial underwriting portion of this transaction, as well as other clarifications,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that the Amended and Restated Lease Agreement Between Miami-Dade County, Lessor, and Villa Aurora Inc., Lessee, is approved in substantially the form attached hereto, and the County Mayor or his designee is authorized to execute such Amended and Restated Lease Agreement, and execute all contracts, agreements, amendments, assignments, certifications, sub-subleases, and extensions contemplated by this Amended and Restated Lease Agreement, and to exercise the cancellation provisions contained therein.

The foregoing resolution was sponsored by Chairman Bruno A. Barreiro and offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman	
Barbara J. Jordan, Vice-Chairwoman	
Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

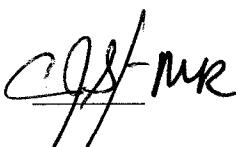
The Chairman thereupon declared the resolution duly passed and adopted this 10<sup>th</sup> day of July, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Cynthia Johnson-Stacks/Monica Rizo

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## SECOND AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT (this "LEASE Agreement") made ~~on~~as of the \_\_\_\_ day of \_\_\_\_, 2005, ~~2007~~, by and between **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, herein sometimes designated or referred to as the "**COUNTY**" or the "**LESSOR**" and ~~Villa Aurora, Inc., a single asset affiliate of Carrfour Supportive Housing, Inc., a Florida Not For Profit Organization~~VILLA AURORA, INC., a Florida not-for-profit corporation, hereinafter called the "**LESSEE**." Collectively, LESSOR and LESSEE shall be referred to as the "Parties."

### **ARTICLE I** **RECITALS**

LESSOR and LESSEE, entered into that certain Second Amended Lease Agreement dated April 21, 2005, as assigned by LESSEE to VILLA AURORA, LLLP, a Florida limited liability limited partnership f/k/a Villa Aurora, Ltd. ("LLP"), pursuant to that certain Assignment of Lease dated as of April 22<sup>nd</sup>, 2005 as evidence by a memorandum of the Original Lease and caused such memorandum to be recorded in Official Records Book 25144, at Page 3422 of the Public Records of Miami-Dade County, and as further assigned by LLP to LESSEE pursuant to an Assignment of Lease dated as of \_\_\_\_\_, 2007 (collectively, the "Original Lease").

LESSOR and LESSEE desire to amend certain terms of the Original Lease and cause an amended and restated memorandum of lease to be recorded among the Public Records of Miami-Dade County, Florida.

This Lease Agreement amends, restates and supersedes the Original Lease in its entirety.

NOW, THEREFORE, in consideration of these presents, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LESSOR and LESSEE hereby enter into this Lease Agreement on the terms and conditions set forth herein.

The above recitals are true and do hereby constitute a part of this LEASE Agreement.

### **ARTICLE II** **PREMISES TO BE LEASED**

The LESSOR, for and in consideration of the restrictions and covenants herein contained pursuant to Florida Statutes Sections 125.35 and 125.379, hereby ~~LEASES~~leases to the LESSEE, and the LESSEE hereby agrees to ~~LEASE~~lease from the LESSOR the property at 1398 SW 1 St. which is legally described in Exhibit A, which is attached hereto and incorporated herein by reference, ("DEMISED PREMISES").

### **ARTICLE III** **TERM OF LEASE AGREEMENT**

The term of this LEASE Agreement shall be for sixty-five (65) years and one (1) day commencing ~~on~~as of December 11, 2005 (the "Commencement Date. ~~The Commencement Date is the earlier of (a) the date on which the Florida Housing Finance Corporation ("FHFC")~~

~~completes and approves the Low Income Housing Tax Credit ("LIHTC") underwriting for the Project and requires evidence of site control prior to the preliminary allocation of LIHTCs, or (b) the date the Project receives from FHFC a preliminary allocation of LIHTCs. In either event, LESSEE will give the LESSOR notice of the occurrence of the Commencement Date within three (3) business days of such occurrence. The term of this Second Amended"). The term of this LEASE Agreement may only be extended, as allowed by the terms of this LEASE Agreement.~~

#### **ARTICLE IV**

#### **CONDITION AND USE OF DEMISED PREMISES**

As of the date of this LEASE Agreement, the DEMISED PREMISES consist of real property and structures thereon. LESSEE has inspected the subject property and ~~accepts~~accepted the property in its "AS IS" condition as of the date of this LEASE Agreement~~the Original Lease~~. LESSEE agrees to use the DEMISED PREMISES for the express purpose of:

Demolishing the existing structure on the premises and constructing a building (the "Building"), which when completed, will contain 76 apartment units and other units designed, structured, and used as follows:

1. A ground floor consisting of approximately 12,000 square feet for the operation of a Hispanic Branch of the Miami-Dade Public Library system of approximately 12,000 square feet ("Library Program"), pursuant to a Sub-sublease Agreement in substantially the form attached hereto as Exhibit "F".
2. A parking structure that will accommodate 194 vehicles. Forty (40) spaces, or such greater number of spaces as is required by applicable state and local law at no cost to library patrons. Such spaces, will be dedicated or reserved for use by patrons of the library ("Library Parking") at no cost to library patrons. One Hundred Fifty Four (154) spaces shall be used for the residents and Carrfour administrative staff ("Carrfour Parking").
3. Carrfour's Mainmain office space (if permitted by the Florida Housing Finance Corporation), program space for Carrfour social service staff, a kitchen for Carrfour social service staff, and multipurpose community rooms to be used for the benefit of the residents (collectively, the "Carrfour Space").
4. Seventy-Six (76) residential units (the "Residential Units") consisting of 25 units of permanent supportive housing for the provision of housing to formerly homeless families and 14 transitional housing units for the provision of housing for homeless or formerly homeless families in accordance with the requirements of Miami-Dade County, acting through the Miami-Dade County Homeless Trust (the foregoing 39 units being hereinafter referred to as the "Homeless Units"). Thirty Seven (37) remaining units shall be affordable housing units. All units will be leased or provided to persons qualifying under Sec. 42 of the Internal Revenue Code.

Deleted:

5. With respect to the 39 ~~units~~Homeless Units above, the parties agree that for so long as governmental operating subsidessubsidies are provided with respect to such units, rents paid by tenants for such units will not exceed 30% (or such other, percentage as prescribed by US HUD) of such tenant's income. If operating subsidies are unavailable, then rents for such 39 ~~units~~Homeless Units shall not exceed those amounts necessary for the project as a whole to cover its costs of operation. With respect to the above referenced 39 ~~units~~Homeless Units, the provider shall accept referrals from the Miami-Dade County Homeless Trust, which shall be given priority. Referrals are defined as tenants referred directly by the Homeless Trust<sub>2</sub>, or by or through the Miami-Dade Homeless Continuum of Care. All such clients shall have be processed through the Homeless Trust's Homeless Management Information System. Lessee agrees to notify the Lessor of any proposed rent increase at least thirty (30) days prior to the increase and to provide Lessor with documentation establishing its<sub>2</sub> cost of operation or other bases for a proposed rent increase.
6. No changes in the use are permitted without the express prior written approval of the LESSOR.

This aforementioned housing will be constructed on the DEMISED PREMISES in accordance with the general timeline as set forth in Exhibit B, which is attached hereto and incorporated herein by reference.

LESSEE<sub>2</sub> in its use of the DEMISED PREMISES, shall comply with all applicable laws and regulations regarding waste and hazardous materials. In that regard, LESSEE shall not do or suffer to be done in, on or upon the Demised Premises or as may affect the DEMISED PREMISES, any act which may result in damage or depreciation of value to the DEMISED PREMISES or any part thereof due to the release of waste or hazardous materials on the DEMISED PREMISES. LESSEE's obligations pursuant to this paragraph shall survive the early termination or expiration of this Lease Agreement.

Upon the date of issuance of the Certificate of Occupancy following the completion of improvements constructed pursuant to this Article, the definition of Demised Premises shall be ~~modified automatically to include only those portions of the facility constructed for the purposes of providing housing and related services. Carrfour's main office space, program space for Carrfour social service staff, a kitchen for Carrfour social service staff, and the multipurpose community rooms to be used for the benefit of the residents. The modified definition of Demised Premises shall specifically exclude the portion of the facility~~County shall have possession of that portion of the Building relating to the Library Program and related administrative space and parkingthe Library Parking (collectively the "Library Space"), on the terms and conditions set forth herein, at which time LESSOR and LESSEE will append to this LEASE Agreement as Exhibit C a sketch of the Library Space. Notwithstanding anything contained herein to the contrary, the County acknowledges and agrees that the failure of the County to maintain and/or operate the Library Program within the Library Space (other than as a result of a default by LESSEE hereunder) shall not give rise to any right on the part of the County to terminate this LEASE Agreement.



**ARTICLE V**  
**RENT**  
**LEASE PAYMENTS**

The annual base rent shall be One Dollar (\$1.00) per year (the "Base Rent"). ~~LESSEE will pay LESSOR the base rent~~ LESSOR hereby acknowledges receipt of the Base Rent for the entire ~~initial term on the Commencement Date~~. The Base Rent will be paid at the address specified for LESSOR or such other address as LESSOR may direct from time to time by written notice. In addition to payment of the Base Rent, LESSEE shall pay to LESSOR a lease acquisition fee in the amount of One Million One Hundred Thousand and No/100 Dollars (\$1,100,000.00), at such time as LESSEE subleases the DEMISED PREMISES to LLLP pursuant to Article XII upon admission of the Investor Limited Partner (as defined below) as a limited partner in LLLP, but in no event later than December 31, 2007 unless otherwise agreed to by LESSOR and LESSEE.

**ARTICLE VI**  
**ARTICLE VI**  
**UTILITIES, INFRASTRUCTURE, TAXES AND ASSESSMENTS**

~~All utilities shall be placed in the name of the LESSEE, and the cost of all utilities, including the~~ The cost of any infrastructure installed in connection with any utilities pertaining to the DEMISED PREMISES, shall be paid by the LESSEE, subject to the County's obligation to make the Capital Commitment (as hereinafter defined). In accordance with the provisions of Article XXV, LESSEE shall cause the Library Space to be separately metered or submetered for water and electricity consumption. LESSEE shall pay the cost of all utilities provided to the Demised Premises other than those provided to the Library Space for which the County shall be responsible.

The LESSEE shall have the obligation to pay all taxes and assessments levied upon or relative to the subject property following substantial completion of the construction done pursuant to this ~~agreement~~ LEASE Agreement, unless LESSEE is granted an exemption ~~thereto~~ therefrom by appropriate government bodies. LESSEE's obligation to make any payments pursuant to this paragraph shall survive the expiration or early termination of this LEASE Agreement. Notwithstanding any provision to the contrary herein, ~~the LESSEE shall have no obligation to pay any taxes and assessments levied upon or relative to the Library Facilities, subsequent to the date of issuance of the Certificate of Occupancy, the County shall reimburse Lessee for any and all utilities relative to the Library Space which are not separately metered or submetered.~~

Notwithstanding anything set forth in Article VI to the contrary, ~~the~~ LESSEE shall only be liable for the taxes and assessments levied against, upon or relative to the Demised Premises shall be these taxes and assessments arising, accruing or assessed subsequent to the effective date of the LEASE Commencement Date.

**ARTICLE VII**  
**MAINTENANCE**

The LESSEE agrees to provide, at its sole cost and expense, all maintenance for the DEMISED PREMISES, both exterior and interior, required to keep the premises in a state of good repair,

and in a safe and clean condition at all times, including but not limited to the following (collectively the "Maintenance Expenses"):

- A. All construction or rehabilitation sites(s)
- B. Janitorial and custodial services
- C. Maintenance of all operating equipment
- D. All interior maintenance and repairs
- E. Maintenance of all plumbing and electrical lines and equipment
- F. Maintenance of all central air-conditioning and heating system equipment
- G. Installation of all utilities, including sewer system
- H. All exterior maintenance and repairs, including roof repairs
- I. Landscaping and lawn maintenance
- J. The removal of litter, trash and refuse
- K. Maintenance of parking area
- L. Maintenance of structure free of termites or any termite activity
- M. Maintenance of elevator.

If the LESSEE fails to maintain the premises and effect repairs, the LESSOR shall notify the LESSEE of the deficiency. If the LESSOR causes the repair, the LESSEE is responsible for payment for such repairs within thirty days of presentation of an invoice. Failure to effect repairs or promptly reimburse shall constitute a violation of the LEASE and shall entitle the LESSOR to ~~cancel the LEASE pursuant to the remedies set forth in Article XXI of this LEASE Agreement.~~ The parties agree that the above referenced expenses shall be ~~pro-rated between the Library and the remainder of the building on a basis which shall subsequently be agreed to by the parties~~ equal to a fraction, the numerator at which shall be equal to the total rentable square footage Library Space and the denominator of which shall be the total rentable square footage of the entire Building. The County shall pay LESSEE the County's proportionate share of the estimated annual Maintenance Expenses on the first day of each calendar month from and after issuance of a Certificate of Occupancy for the Library Space. Provided, however, that the County will not be responsible for the following Maintenance Expenses, and the LESSEE will provide such services for itself: (i) Janitorial and custodial services; (ii) All interior maintenance and repairs; and (iii) Maintenance of all central air-conditioning and heating system equipment, (jointly referred to as the "Library Maintenance"). Within ninety (90) days after the end of each calendar year, LESSEE shall account to the County with respect to the actual amount of the Maintenance Expenses for the preceding calendar year. Within thirty (30) days thereafter, any amount of owing by either party to the other to balance the required payment shall be made. The County shall have the right to audit the accounting described above.

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## ARTICLE VIII CONSTRUCTION

It is hereby agreed that the land shall be left in its natural state insofar as possible and that said lands shall be utilized only for the purposes as are outlined above. However, the LESSEE, at its own expense, shall make such improvements, as provided herein, upon said land as shall be reasonably necessary to place the demised property and premises in such state or condition that they may be used for the purposes for which this LEASE is made and entered into. Such improvements are to be at the sole cost and expense of the LESSEE. All plans and contracts for

demolition, the erection of any buildings or other improvements related to the Library Program and Library Parking, or landscaping, shall be first submitted to the Director of the Miami-Dade County Library System for report, recommendation, and approval, prior to submission to the appropriate City departments for review and approval, which shall not be unreasonably withheld. Comments to all such documents shall be transmitted to Lessee within ten (10) working days. The proposed renovation will be constructed in accordance with the schedule in Exhibit B, as may be amended from time to time, upon written consent of the County Manager and the LESSEE. The County retains the right to approve and inspect the construction of all phases of renovation. All phases of construction required pursuant to this Agreement shall be completed by December, 2007, if allocation of LIHTC is obtained in the 2005 combined LIHTC cycle or December, 2008, if the allocation of LIHTC is procured in the 2006 combined cycle, 31, 2009, unless a later date is approved in writing by the County Manager or his designee. Notwithstanding anything contained in this LEASE Agreement to the contrary, if the Florida Housing Finance Corporation has not, by December 31, 2007, granted an extension of the "placed in service" date for the Residential Units from December 31, 2008 to December 31, 2009 (whether through exchange of tax credits or otherwise), then this LEASE shall automatically terminate as of midnight on December 31, 2007, without any further action by either party, and no notice to any Leasehold Mortgagee or Investor Limited Partner shall be required, nor shall such parties have any opportunity to cure the failure to obtain such extension.

#### **ARTICLE IX**

#### **CONSTRUCTION RELATED LIENS**

All persons, firms or corporations dealing with the LESSEE, if any, in respect to the furnishing of any labor, services or materials for any improvements, are hereby placed on notice that no liens of any nature or character shall be imposed upon or enforced against LESSOR'S interest in said land or improvements, but that credit and liability and interest of the LESSEE in the Demised Premises only shall be relief upon for payment of the cost of such improvements. The LESSEE shall include language to the effect of the foregoing sentence in all its agreements, if any.

The LESSEE agrees that it will not permit any mechanic, materialmen's or other liens to stand against the DEMISED PREMISES for work or materials furnished to the LESSEE for the DEMISED PREMISES, it being provided, however, that the LESSEE shall have the right to contest the validity thereof. The LESSEE shall immediately pay any and all judgment decrees rendered against the LESSEE, following the conclusion of such legal processes, with all proper costs and charges, and shall cause any such liens to be released of record without cost to the LESSOR.

This Section shall not apply to Leasehold Mortgages authorized by this LEASE Agreement.

#### **ARTICLE X**

#### **TITLE TO IMPROVEMENTS BY LESSEE**

Prior to the expiration, termination, or cancellation of this LEASE Agreement, title to all improvements to the DEMISED PREMISES and all assets and personal property incorporated into such improvements shall be vested in the LESSEE, subject to the County's rights to occupy the Library Space as set forth herein; provided, however, in the event the DEMISED PREMISES are subleased to LLLP pursuant to the provisions of Article XII and LLLP constructs the improvements, such improvements shall be vested in LLLP, subject to the County's rights to occupy the Library Space. However, the LESSEE agrees that it will not resell, ~~LEASE~~ lease, mortgage, or encumber or otherwise dispose of any part of the ~~improvements~~ improvements except as the LESSOR or its successor in function may authorize in writing. Such authorization may be withheld with or without cause in the sole discretion of the LESSOR. Upon expiration, termination, or cancellation of this LEASE Agreement, title to all improvements to the DEMISED PREMISES and all assets and personal property incorporated into such improvements other than personalty which is not permanently affixed to the DEMISED PREMISES, shall thereafter be vested in the LESSOR without payment or any amount by the LESSOR to the LESSEE.

The LESSOR shall have no liability or obligation to the LESSEE's contractors, subcontractors, and materialmen performing work on or supplying materials for construction of any improvements (other than the obligation to make the Capital Contribution). The LESSEE warrants that no mortgage, liens, or other encumbrances whatsoever will be placed against the DEMISED PREMISES and any improvements thereon by LESSEE.

~~This Section shall not apply to~~ Notwithstanding anything contained herein to the contrary, any provision in this Article restricting or prohibiting the sale, leasing, mortgaging or other encumbrance of the Demised Premises (including the Improvements) shall not apply to (i) Leasehold Mortgages authorized by this LEASE Agreement. This Section shall not apply to the interior (and any associated regulatory agreements or other restrictive covenants required by such Leasehold Mortgages), (ii) the Library Space on or after the date of issuance of the Certificate of Occupancy, (iii) the Carrfour Space, (iv) the leasing of the Residential Units, or (v) any extended low income housing agreement as may be required by the Florida Housing Finance Corporation in connection with the award of tax credits for the construction of the Building.

## **ARTICLE XI**

### **DESTRUCTION OF PREMISES; CONDEMNATION**

1. In the event that any improvements to the Demised Premises should be destroyed or so damaged by fire, windstorm, or other casualty to the extent that such improvements are rendered unfit for the LESSEE's purposes, LESSEE shall restore the improvements to the Demised Premises to good condition as soon as practical thereafter as determined in the sole reasonable discretion of the LESSOR from proceeds or insurance coverage or at its own cost and expense. If the insurance proceeds are insufficient to restore the premises as required by this paragraph, then LESSEE shall give prompt written notice to LESSOR after the occurrence of any fire, earthquake, act of God or other casualty to or in connection with the DEMISED PREMISES, the Building or any portion thereof. Subject to Section 2 of this Article XI below, if during the term, the Building shall be damaged or destroyed by casualty, LESSEE shall repair or restore the Building, so long as it is lawful to do so and there are adequate insurance proceeds

available to LESSEE for that purpose. Upon the occurrence of any such casualty, LESSEE, promptly and with all due diligence, shall apply for and collect all applicable insurance proceeds recoverable with respect to such casualty for the benefit of the LESSOR, and this LEASE shall be terminated upon the date of receipt of the insurance proceeds by the LESSOR. If this LEASE is terminated, pursuant to this paragraph, the. In the event that more than fifty percent (50%) of the value of the Building and/or the DEMISED PREMISES are damaged or destroyed, and LESSEE shall determine (or if LLLP shall so determine pursuant to the Sublease, as defined below) subject to the rights of the Leasehold Mortgagees and the obligations of the grantor under such Leasehold Mortgages, and shall notify LESSOR in writing within thirty (30) days after settlement of any claim with the insurer, that it is not economically practical to restore the DEMISED PREMISES to substantially the same condition in which they existed prior to the occurrence of such casualty, then LESSEE may terminate this LEASE AGREEMENT as of a date that is not less than thirty (30) days after the date of such notice. If LESSEE terminates this Lease pursuant to this Section, LESSEE shall surrender possession of the Premises to LESSOR upon termination and assign to LESSOR all of its right, title and interest in and to the proceeds from LESSEE's insurance upon the Premises. DEMISED PREMISES to LESSOR immediately, and the proceeds of any insurance shall be disbursed as provided in Section 2 below.

2. In the event that this LEASE Agreement is terminated pursuant to Section 1 of this Article XI, the insurance proceeds received as the result of such casualty shall be distributed as follows: (a) first, to the holders of the Leasehold Mortgages in their order of priority to the extent of any indebtedness then owed to the Leasehold Mortgagees if the terms of the Leasehold Mortgages so require; provided, however, any insurance proceeds attributable to the Library Space shall be paid to the LESSOR, (b) second, LESSOR shall be paid an amount sufficient to remove any improvements not repaired and to return the DEMISED PREMISES to the level of the adjacent streets, (c) third, LESSEE shall be paid an amount equal to the then unamortized costs of construction of the Improvements (including any alterations or modifications thereto), provided, however, if LESSEE and LLLP have entered into the sublease and the improvements are construed and insured by LLLP, any amounts payable to LESSEE under this clause(c) shall be paid to LLLP, and (d) the balance, if any, of such insurance proceeds shall be assigned or paid over to LESSOR.

3. (a) If, by exercise of the right of eminent domain or by conveyance made in response to the threat of the exercise of such right (in either case a "Taking"), all of the DEMISED PREMISES are taken, or if so much of the DEMISED PREMISES are taken that the DEMISED PREMISES cannot reasonably be used by LESSEE for the purposes for which they were used immediately before the Taking, then this LEASE Agreement shall, subject to the requirements of the Leasehold Mortgages, at LESSEE's sole option, terminate on the earlier of the vesting of title to the DEMISED PREMISES in the condemning authority, or the taking of possession of the DEMISED PREMISES by the condemning authority; provided, however, if LESSEE and LLLP have entered into the sublease, LESSEE may not elect to terminate this LEASE Agreement without the prior written consent of all Leasehold Mortgagees and Investor listed partner.

(b) LESSOR and LESSEE agree that, in the event of a Taking that does not result in the termination of this LEASE Agreement pursuant to this Article, this LEASE Agreement shall continue in effect as to the remainder of the DEMISED PREMISES, and the net

amounts owed or paid to the parties or to which either of the parties may be or become entitled by reason of any Taking or pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any reasonable, unreimbursed costs and expenses incurred by the parties in collecting such award or payment (the "Net Condemnation Award"), will be disbursed under applicable laws and regulations, and to the extent permitted by the foregoing, in accordance with subsection (d) below to LESSEE and/or any Leasehold Mortgagees, if the terms of the Leasehold Mortgage so require, and shall be used so as to make the Demised Premises, including any necessary construction, to make a complete, unified and efficient operating building as nearly as reasonably possible to the condition existing prior to the Taking, subject to any applicable requirements of any Leasehold Mortgage.

(c) If there shall be a temporary Taking with respect to all or any part of the DEMISED PREMISES or of LESSEE's interest in this LEASE Agreement, then the term shall not be reduced and LESSEE shall continue to pay in full all rents, impositions and other charges required herein, without reduction or abatement thereof at the times herein specified; provided, however, that LESSEE shall not be required to perform such obligations that LESSEE is prevented from performing by reason of such temporary Taking.

(d) If there is a Taking, whether whole or partial, LESSOR and LESSEE shall be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings, or as may be otherwise agreed. If the DEMISED PREMISES shall be restored as is contemplated in subsection (b) above, LESSEE shall be entitled to recover the reasonable costs and expenses incurred in such restoration out of any Net Condemnation Award, as determined by such award. Thereafter, if the condemning authority does not make separate awards, the parties agree that any Net Condemnation Award will be allocated between them on a proportionate basis, taking into account factors including the value of the land, the value of the Building (taking into consideration the right of the County to occupy the Library Space), and the remaining term of is LEASE Agreement. If the parties are unable to agree as to the exact percentage of such allocation and the parties are unable to agree as to amounts that are to be allocated to the respective interests of each party, then each party shall select an independent M.A.I. real estate appraiser (an "Appraiser"). Each Appraiser shall separately determine the amount of the balance of the Net Condemnation Award that is to be allocated to each party. If the percentage allocated to LESSOR by one Appraiser is within ten percent (10%) of the percentage allocated to LESSOR by the other Appraiser, then the two percentage allocations shall be averaged and such average percentage shall be the percentage to be allocated to LESSOR, with the remaining percentage of the balance of the Net Condemnation Award to be allocated to LESSEE. If the percentage allocated to LESSOR by one Appraiser is not within ten percent (10%) of that allocated to LESSOR by the other Appraiser, then the two Appraisers shall select a third Appraiser, who shall independently determine the percentage of the balance of the Net Condemnation Award that should be allocated to each party; and the average of the percentages determined by the three Appraisers to be allocable to LESSOR shall be the percentage that is allocated to LESSOR, and the remaining percentage of the balance of the Net Condemnation Award shall be allocated to LESSEE. If necessary to engage a third Appraiser, such Appraiser shall be engaged jointly by LESSEE and LESSOR. The costs of all Appraisers engaged under this Section 3(d) shall, in the aggregate, be split equally by LESSEE and LESSOR. Nothing

herein prohibits any party from seeking the determination of a court of competent jurisdiction as to the value of each party's interest in the Demised Premises.

(e) If any Leasehold Mortgage exists, the Leasehold Mortgagee(s), to the extent permitted by law, shall be made a party to any Taking proceeding.

## **ARTICLE XII**

### **ASSIGNMENT; SUBLEASE**

1. The LESSEE shall not assign, sublet, transfer, mortgage, pledge, or dispose of this LEASE or the terms hereof without the written approval of the LESSOR. Notwithstanding the foregoing, LESSOR and LESSEE agree that LESSEE may assign this LEASE to a limited partnership of which the LESSEE or a not-for-profit affiliate of LESSEE, is the general partner. Except as otherwise expressly permitted in this LEASE Agreement, the LESSEE shall not assign, sublet, transfer, mortgage, pledge, or dispose of this LEASE Agreement or its interest herein without the written approval of the LESSOR.

2. Notwithstanding anything construed in this LEASE Agreement to the contrary, the County acknowledges and agrees that LESSEE intends to sublet the DEMISED PREMISES to LLLP pursuant to a sublease Agreement (the "Sublease") whereby LLLP will agree to insured the Building (including the Library Space) and other Improvements. For so long as the Sublease is effective, LESSOR agrees (i) to accept performance by LLLP of any and/or all of LESSEE's obligations hereunder as if same had been performed by LESSEE, (ii) that any and all rights of LESSEE hereunder shall be vested in LLLP, and LLLP may enforce directly against LESSOR, any rights or remedies of LESSEE hereunder, and (iii) LESSOR may enforce directly against LLLP against any rights or remedies of LESSOR hereunder, all as though LLLP and LESSOR were in direct contractual privity and as though this LEASE Agreement was between LLLP and LESSOR. Furthermore, LESSOR acknowledges that LLLP intends to finance construction of the Building and other improvements with an equity investment to be provided by Wincopin Circle, Inc. (the "Investor Limited Partner")

3. LESSOR shall not transfer all or any portion of its interest in the DEMISED PREMISES if the same would cause a violation of any applicable laws, this LEASE Agreement, or any agreement or contract to which LESSOR is a party or by which LESSOR is bound. LESSOR shall not consent to any future mortgages or permit any future liens, or encumbrances against the fee estate in the DEMISED PREMISES, or otherwise pledge, assign or otherwise dispose of the fee estate in the DEMISED PREMISES without the prior written consent of LESSEE, LLLP, Investor Limited Partner, and any Leasehold Mortgagee. To the extent a future mortgage on the fee estate is provided hereunder, such mortgage shall expressly provide that it is subordinate and subject to the LESSEE's interest under this LEASE Agreement. Additionally, the LESSEE shall not be required to subordinate its leasehold interest to any future mortgage of the fee estate in the DEMISED PREMISES obtained by LESSOR.

**ARTICLE XIII**  
**SIGNS**

Signs will be of the design and form of letter mutually agreed to by the Library Program director (for ~~library program~~ Library Program signage), the Executive Director of the Miami-Dade County Homeless Trust (for housing signage), and the LESSEE. The cost of design and painting, except for Library Program signage, is to be paid by the LESSEE. All signs shall be removed by the LESSEE at the termination of this LEASE Agreement and any damage or unsightly condition caused to premises because of or due to said signs shall be satisfactorily corrected or repaired by the LESSEE. The LESSOR can disallow only signs which have not been previously approved.

**ARTICLE XIV**  
**NO LIABILITY**

All personal property placed or moved in the DEMISED PREMISES above described shall be at the risk of the LESSEE or the owner thereof, other than personal property of the County placed or moved in the Library Space which shall be at the risk of the County. The LESSOR shall not be liable to the LESSEE for any damage to said personal property unless caused by or due to negligence of the LESSOR, the LESSOR's agents, or employees, subject to all limitations of Florida Statutes, Section 768.28.

**ARTICLE XV**  
**LESSOR'S RIGHT OF ENTRY**

The LESSOR or any of its agents, shall have the right to enter onto the DEMISED PREMISES during all reasonable working hours, to examine the same or to make such additions, inspections, or alterations as may be deemed necessary for the safety, comfort, or preservation thereof of the DEMISED PREMISES and to determine if the DEMISED PREMISES are being maintained in good condition, provided that to do so shall not unreasonably interfere with LESSEE's activities. Such periodic inspections may also be made to determine whether the LESSEE is operating the DEMISED PREMISES in compliance with the terms and provisions of this LEASE Agreement.

**ARTICLE XVI**  
**OPTION TO RENEW**

~~Provided this LEASE is not otherwise in default, the County Manager or his designee, upon approval of the Miami-Dade County Homeless Trust, is hereby granted the option to extend this LEASE for up to two additional ten (10) year periods on the same terms and conditions as set forth in this LEASE, or such lesser period of time as agreed to by the PARTIES, by giving the LESSEE notice in writing at least ninety (90) days prior to the expiration of this LEASE or any extension thereof.~~

Intentionally Deleted.

**ARTICLE XVII**  
**LIABILITY FOR DAMAGE OR INJURY**



~~The~~Except for damage or injury occurring within the Library Space after the date of issuance of the Certificate of Occupancy for which the County shall be solely liable, ~~the~~ County shall not be liable for any damage or injury which may be sustained by any party or person on the DEMISED PREMISES other than the damage or injury caused solely by the negligence of the County, its employees, or agents, subject to all limitations of Florida Statutes, Section 768.28.

#### **ARTICLE XVIII**

#### **PEACEFUL POSSESSION**

Subject to the terms, conditions and covenants of this LEASE Agreement, the LESSOR agrees, that the LESSEE shall and may peaceably have, hold and enjoy the ~~Premises~~DEMISED PREMISES above described, without hindrance or interruption by the LESSOR, subject to the County's rights to occupy the Library Space.

#### **ARTICLE XIX**

#### **INDEMNIFICATION AND HOLD HARMLESS**

The LESSEE shall protect, defend, using attorneys reasonably acceptable to the LESSOR and hold the LESSOR and its officers, agents, and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs, and expert fees, in connection with administrative hearings and litigation through all levels of trial and appellate proceedings), of any nature whatsoever arising out of or incident to this LEASE Agreement and the use or occupancy of the DEMISED PREMISES or the acts or omissions of officers, agents, employees, contractors, subcontractors, licensees, or invitees of the LESSEE regardless of where the injury, death or damage may occur, unless such injury, death, or damage (i) occurs in the Library Space after the date of issuance of the Certificate of Occupancy, in which event the County shall be liable therefor or (ii) is caused by the negligence of the LESSOR. The LESSOR shall give to the LESSEE reasonable notice of any such claims or actions. The provisions of this Article shall survive the expiration or early termination of this LEASE Agreement.

#### **ARTICLE XX**

#### **SUCCESSORS INTEREST**

It is hereby covenanted and agreed between the PARTIES that all covenants, conditions, agreements, and undertakings contained in this LEASE Agreement shall extend to and be binding on the respective successors and assigns of the respective PARTIES hereto, the same as if they were in every case named and expressed.

#### **ARTICLE XXI**

#### **DEFAULT, REMEDIES, AND TERMINATION**

If the LESSEE fails to pay when due amounts payable under this LEASE Agreement or to perform any of its other obligations under this LEASE Agreement, including any obligations relating to the Library ~~space~~Space, within the time required for its performance, then LESSOR, after ~~fivethirty~~ (530) days' prior written notice to LESSEE and without waiving any of its rights

under this LEASE, may pay such amount or perform such obligation. All amounts so paid by LESSOR and all reasonable costs and expenses incurred by LESSOR in connection with the performance of any such obligations will be payable by LESSEE to LESSOR within thirty (30) days of demand.

At the option of the LESSOR, the occurrence of any of the following events shall constitute an Event of Default by LESSEE:

- A. Failure of the LESSEE to operate the Demised Premises substantially in accordance with its approved uses; material non-performance of any covenant of this LEASE Agreement by the LESSEE or any of its subcontractors, agents, or licensees; and such breach continues for a period of thirty (30) days after notice by LESSOR to LESSEE; provided, however, if the LESSOR determines that the nature of the breach is such that it cannot be cured by LESSEE within the period of thirty (30) days, the LESSOR shall not declare the LESSEE to be in default of ~~the~~ this LEASE Agreement, as long as LESSEE has commenced the curing of such default within such period of thirty (30) days and prosecutes in good faith the curing of same continuously thereafter until the same is, in fact, cured.
- B. Abandonment or vacation of DEMISED PREMISES by the LESSEE before the end of the term of this LEASE for ten (10) days or more.
- C. The failure of the LESSEE to correct destruction of the DEMISED PREMISES, ~~if required in writing by the LESSOR,~~ pursuant to the provisions of Article XI.
- D. Failure to obtain a Certificate of Occupancy in accordance with the schedule attached as Exhibit B.
- E. Failure to ~~pay the annual rent when due or to reimburse the LESSOR,~~ as required by this Article for more than ~~ten~~ thirty (1030) days after written notice from LESSOR.
- F. ~~In the event the LESSEE is unsuccessful in procuring an allocation of LIHTC from the FHFC in either the 2005 or 2006 Combined Cycles by the LIHTC, and LESSEE shall not by January 5, 2007 have provided to LESSOR, and with LESSOR's approval closed upon, a feasible financial plan which substantially accomplishes the construction of the Improvements at no material increase in cost to the Miami-Dade County from that originally anticipated in this LEASE Agreement, as determined by the County Manager. In such latter instance, the Commencement Date of this LEASE shall be the date of such financial closing (a "Reimbursement Default").~~

If any one or more Events of Default set forth in this Article occur, then LESSOR may, at LESSOR's sole and exclusive remedy, at law or in equity, but subject in all respects to the rights of any holder of a Leasehold Mortgage and the Investor Limited Partner, as set forth herein, terminate this LEASE by written notice to LESSEE of its intention to terminate this LEASE on the date specified in such notice, it being understood and agreed that LESSOR shall have no right to terminate this LEASE Agreement as a result of a Reimbursement Default and that

LESSOR's sole remedy in such event is to obtain a monetary judgment against LESSEE for the amount of such Reimbursement Default. On the date of termination, LESSEE's right to possession of the Premises and the Improvements will cease and the Leasehold interest conveyed by this LEASE shall revert in LESSOR, providing such re-vesting of the estate and the reentry by LESSOR shall be subject to and limited by, and shall not defeat, render invalid or limit in any way the lien of any Leasehold Mortgage.

Notwithstanding any provision to the contrary, except as expressly permitted by this Agreement, the LESSOR may, subject to the notice and cure periods set forth in Article XXX, terminate this AGREEMENT immediately upon the voluntary or involuntary assignment of this LEASE without written approval of the LESSOR, except as expressly permitted by this Agreement.

Notwithstanding any provision to the contrary herein, in the event the LESSEE violates this Agreement and such violation results in a defect in the subject property which poses a substantial risk to persons or property, the LESSOR may terminate this Agreement immediately, subject to the notice and cure periods set forth in Article XXX, on the provision of written notice to the LESSEE and the Leasehold Mortgagee as deemed appropriate by the Executive Director of the Miami Dade County Homeless Trust Mortgagees.

Notwithstanding any provision to the contrary herein, failure of the LESSEE to secure all necessary zoning approvals and necessary permits and approvals shall entitle the LESSOR to cancellation of this LEASE in the event of failure by the LESSEE regardless of the cause of the deficiencies, to remedy these deficiencies within thirty (30) days of receipt of written notice by the LESSOR of such default, or such other time as agreed to by the Parties. Lessee shall have one year from the date of application for permits or zoning applications to obtain such permits and zoning approvals, as may be required. Notwithstanding any provision to the contrary herein, failure of the LESSEE to secure and to maintain at all times required licensing shall entitle the LESSOR to automatic cancellation of, subject to the notice and cure periods set forth in Article XXX, to terminate this LEASE Agreement.

## **ARTICLE XXII** **PRIOR LEASE**

This Lease Agreement supersedes the Original Lease in its entirety that certain Lease Agreement dated October 15, 2001 by and between the Lessor and Lessee.

## **ARTICLE XXIII** **NOTICES**

It is understood and agreed between the Parties hereto that written notice addressed and sent by certified or registered mail, return receipt requested, first class, postage prepaid and addressed as follows:

**IF TO LESSOR:**

The County Manager  
 George Burgess  
 c/o David Raymond  
 Executive Director  
 Dade County Homeless Trust  
 111 N.W. First Street, Suite 2710  
 Miami, Florida 33128

And

Raymond Santiago  
 Director,  
 Miami-Dade County  
 Public Library System  
 101 West Flagler  
 Miami, FL 33130

Raymond Santiago  
Director,  
Miami-Dade County  
Public Library System  
101 West Flagler Street  
Miami, FL 33130

**IF TO LESSEE:**

Executive Director  
 Maria Pellerin Bareus  
Stephanie Berman  
 President/CEO  
 Villa Aurora, Inc.  
 155 S. Miami Ave., Ste. 1150  
 Miami, FL 33131

**IF TO INVESTOR LIMITED****PARTNER:**

Wincopin Circle, LLLP  
10227 Wincopin Circle, 8<sup>th</sup> Floor  
Columbia, MD 21044  
Attn: General Counsel

**IF TO FIRST LEASEHOLD****MORTGAGEE:**

Florida Housing Finance Corporation  
227 North Bronough Street  
Suite 5000  
Tallahassee, FL 31301-1329  
Attn: Executive Director

**WITH A COPY TO:**

Jan Albanese Carpenter, Esq.  
Shuffield Lowman  
1000 Legion Place  
Suite 1700  
Orlando, FL 32801

**WITH A COPY TO:**

Craig A. Emden, Esq.  
Bocarsly Emden Cowan Esmail  
Parker & Arndt, LLP  
7200 Wisconsin Avenue, Suite  
900  
Bethesda, MD 20814

shall constitute sufficient notice to the LESSEE and the LESSOR, LESSOR, First Leasehold Mortgagee (as defined in Exhibit E) and/or Investor Limited Partner, as applicable, pursuant to this LEASE. Any notice required to be provided by this LEASE Agreement or by law shall be sufficiently provided, if provided in accordance with the terms of this paragraph.

**ARTICLE XXIV**  
**AMENDMENTS**

No amendment to the LEASE shall be effected, unless agreed to in writing by the LESSOR and the LESSEE (with the prior written consent of any Leasehold Mortgagee and Investor Limited

Partner). Notwithstanding any provision herein to the contrary, the County Manager is expressly authorized to agree, on behalf of the LESSOR, to (a) any amendment to the this LEASE Agreement which (i) reduces or increases the number of affordable (non-homeless) housing units, (ii) reduces the number of parking spaces in accordance with any variance or determination granted by the applicable governmental authority, (iii) reduces the square footage of the structure by no more than ten percent (10%), (iv) modifies the design of the structure in a manner which is consistent with the use of the premises as set forth in this LEASE Agreement, (v) modifies the schedule contained in Exhibit B, or (vi) effects any amendment which is necessary or advisable to implement the terms of this LEASE Agreement, and (b) execute any consent to the Sublease.

## **ARTICLE XXV LIBRARY PROGRAM**

The LesseeLESSEE agrees to construct a one-story storefront Library spaceSpace, as further described in this LEASE Agreement, of approximately 12,000 contiguous square feet within which the Miami-Dade Public Library System shall operate a branch library, subject to the conditions set forth herein. Parties-The LESSEE shall construct and provide the Librarylibrary: (1) ~~at least 40 parking spaces in the parking structure or such greater number of spaces as is required by applicable state and local law~~the Library Parking, at no cost to Librarylibrary patrons; (2) a separate library entrance; and (3) separate delivery access sufficient to accommodate library delivery vehicles. The LESSEE shall not commence construction of the Library spaceSpace without first obtaining the County's written approval of the site plan and exterior plan of the Library spaceSpace, which approval shall not be unreasonably withheld. The LESSEE agrees to construct the Library spaceSpace consistent with the requirements of federal, state and local law, including but not limited to the requirements contained in the Florida Building Code and Americans with DisabilityDisabilities Act.

**1. Interior:** The LESSEE agrees to fully construct, partition, and prepare the Library spaceSpace in accordance with the plans and specifications prepared by the LESSEE's architect, and approved by the County, which approval shall not be unreasonably withheld. The LESSEE, based upon the County's Interior Design Plan, further agrees to turn over to the County the Library space ready for immediate occupancy, as more fully set out in this Section. Consistent with the County's Interior Design Plan, the LESSEE shall:

- a. Fully partition and paint the interior of the Library spaceSpace;
- b. Furnish and install all interior doors and interior finished (commercial carpet and paint);
- c. Furnish and install a finished ceiling, including all overhead lighting fixtures;
- d. Furnish and install an independent fully functional HVAC air conditioning system for the Library spaceSpace;
- e. Furnish and install all safety devices required by the Florida Building Code or other applicable laws, rules, or regulations, including but not limited to: all fire alarms, sprinkler systems, fire extinguishers, and exit signs;

- f. Furnish and install wiring and equipment needed by the Library ~~Building~~Space for electric, data communication and connectivity to the Library's Wide Area Network, telephone, and cable service; and
- g. Furnish and install separate electric and water use meters for the Library ~~space~~Space.

The LESSEE shall undertake the interior improvements described in Section 1 only upon submission by the County, in writing, of its design plan for the interior space (the "Interior Design Plan"). Any and all interior construction undertaken by the LESSEE and described in this section shall be in strict compliance with the Interior Design Plan. Prior to construction, the LESSEE shall approve all design plans and construction documents, as allowed by Section 7 of this Article.

**2. Interior Design Plan:** The County agrees to submit the Interior Design ~~plan~~Plan to the LESSEE as described in Section 1 above, no later than forty-five (45) days after notice from LESSEE. The Library ~~space~~Space plan should have sufficient detail on layout and location of the Library ~~space~~Space to allow the County's architects to execute the Interior Design Plan. The Interior Design Plan shall include the following:

- a. The location of furniture and fixtures, electrical, telephone, data cable drops, and outlets;
- b. Specifications of interior finishes; and
- c. Dimensioned floor patterns and tile patterns, as required.

**3. Furniture and Supplies & Equipment:** The County shall provide all furniture, shelving, books, window treatment, supplies, and equipment, including computer equipment, for the Library ~~space~~Space, and shall have full discretion in the selection and approval thereof.

**4. Maintenance:** The County shall be responsible for full maintenance and repair of the interior of the Library ~~space~~Space, including the maintenance and repair of all flooring, wiring, or other interior construction furnished and/or installed by the LESSEE under this Article after the warranty period on the interior construction expires. Such warranty period shall be no less than one year. The County shall be responsible for maintaining the HVAC unit(s) after the manufacturer's warranty period on the HVAC unit(s) has expired. The County shall be responsible for payment of its electric and water services, as measured by the separate meters furnished and installed by the LESSEE under this Article. The County shall be responsible for any other utilities consumed by the County in connection with the Library Space. The County shall provide its own janitorial and custodial services to serve the needs of the Library ~~space~~Space.

The LESSEE shall be responsible for maintaining the parking structure, all exterior electricity and lighting fixtures, all landscaping, and all exterior maintenance, including any structural maintenance of the Library ~~space~~Space, subject to the agreement of the parties to prorate such expenses, as provided by Article VII.

If the LESSEE fails to maintain the Library Space to the extent required hereby, the LESSOR shall notify the LESSEE of the deficiency. If the LESSOR causes the repair, the LESSEE is

responsible for payment for such repairs within thirty days of presentation of an invoice. Failure to effect repairs or promptly reimburse shall constitute a violation of the LEASE and shall entitle the LESSOR to ~~cancel~~pursue the LEASE remedies provided pursuant to Article XXI of this LEASE Agreement.

Notwithstanding any provision of this Agreement, the provision of this paragraph shall set forth the obligations of the Parties relating to the Library Space following issuance of the Certificate of Occupancy.

**5. Capital Commitment:**

A. The County will provide up to \$2,950,000 ~~million~~ for capital development of the Library ~~space~~Space (the "Capital Commitment"), including design and construction of the ~~building~~Building. Payment of the funding shall be effectuated upon LESSEE's completion of 25% of construction at which time the County shall provide 25% payment of the \$2,950,000; at completion of 50% of construction the County shall provide an additional payment ~~of 25% to a total of 50% of total project cost~~; at 75% of construction the County shall provide an additional payment of 25% to a total of 75% of total project cost; and an additional payment of 25% to a total of 100% of project cost at issuance of a certificate of occupancy for the Library ~~space~~Space and County approval of the Library ~~space~~Space. Prior to any payment by ~~Lessor~~LESSOR, the LESSEE shall provide the County with a Capital Project Payment Certificate. Such Capital Payment Certificate shall be accompanied by proof of cost or expenditure, including but not limited to: original invoices, bills, receipts, and canceled checks. The Capital Project Payment Certificate must also be accompanied by release(s) of lien from all subcontractors who completed work on the Library ~~space~~Space. Should release(s) of lien be unavailable for subcontractor work under the previous Capital Project Payment Certificate, the LESSEE shall submit consent of surety covering the amount of the subcontractor work or claim. Failure to submit release(s) of lien and/or consent(s) of surety under this section shall result in denial of payment under the Capital Project Payment Certificate. At the request of LLLP or the Investor Limited Partner, the County's Capital Commitment (as scheduled in this Paragraph A above) paid to Lessee, for the uses provided above, may in turn be loaned or contributed to LLLP (as reasonably approved by the Florida Housing Finance Corporation).

B. In no event shall County funds be advanced directly to any subcontractor.

C. After the County reviews and approves the Capital Project Payment Certificate, the County will issue and mail the check directly to the LESSEE. It is the responsibility of the LESSEE to maintain sufficient financial resources to meet the expenses incurred during the period between provision of services and payment by the County.

D. If the LESSEE fails to comply with all the terms of this LEASE Agreement, the LESSEE shall forfeit all rights to payment. Final payment is contingent upon final inspection, presentation of "as-built" drawings by the LESSEE, and approval by the Miami-Dade County Building Department, the Library Department, and any other agencies that may be responsible to provide approval upon completion of the agreed-upon scope of work and the presentation of a Certificate of Occupancy.

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E. ~~The LESSEE shall pay to Miami-Dade County One Million Five Hundred Thousand Dollars (\$1,500,000.00), after the closing of the construction financing and immediately prior to commencement of construction to acquire the development rights herein. Such funds shall be held in escrow in a County trust fund at the same interest rate as the County earns on its investment and pool cash account (the "Escrow Account"). For purposes of this agreement, commencement of construction is defined as filing of notice of commencement. If the capital development and construction costs of the Library Space exceed \$2.95 million dollars, following receipt of bids for the construction of the Library, Escrow Account funds may be drawn down by LESSEE to the extent necessary to discharge its responsibilities under this Agreement for capital development and construction costs of the Library Space. Upon issuance of a certificate of occupancy for the improved structure and certification satisfactory to the County Manager that there are no outstanding expenses related to the capital development and construction of the Library Space, the Escrow Account Funds remaining shall be paid as a grant to Carrfour Supportive Housing, Inc. for utilization in connection with development of another affordable housing project which provides housing, at a minimum 50% of the units for homeless people. ("Carrfour") shall guaranty all capital development and construction costs of the Library Space to the extent such costs exceed \$2,950,000, which obligation shall be evidenced by a guaranty agreement from Carrfour in favor of the County in substantially the form attached hereto as Exhibit D.~~

#### 6. Operation.

Miami-Dade County Public Library System will operate the library and will pay the ~~fall~~full yearly operating costs.

The Hispanic Branch Library will be operated in accordance with all rules and regulations of the Miami-Dade Public Library System. The LESSEE shall ensure the County's quiet enjoyment of the Library ~~Facility~~Space. The Library reserves the right to change the operating hours of the branch Library as needed, and may be changed at the sole option of the County without formal amendment of this LEASE Agreement.

#### 7. Additional Assurances and Agreements.

The Parties agree to negotiate and consider entering into agreements, as necessary, to implement this LEASE Agreement. Such future agreements may concern funding agreements, releases, additional, maintenance, insurance, operational and logistical concerns relating to the Library Space, as long as such agreements are not inconsistent with the provisions of this agreement LEASE Agreement. The ~~Agreements~~agreements authorized by this paragraph may be entered into by the County Manager or his designee on behalf of Miami-Dade County.

### ARTICLE XXVI INSURANCE

Prior to commencement of work, the LESSEE shall obtain or cause its contractor to obtain all insurance required under this Article and submit same to the County for approval. All insurance shall be maintained during the construction process and during the occupancy of the DEMISED PREMISES until such time as this LEASE Agreement is terminated.



The LESSEE shall furnish to the Miami-Dade County Homeless Trust, 111 NW 1st Street, Suite 2710, Miami, FL 33128:

1. Certificate(s) of Insurance which clearly indicate the insurance coverages required in paragraphs 2 (a), 2(b) and 2 (c) of this Article.
2. Original Policies which clearly indicate the coverages required in paragraphs 2(d) and 2(e).

The Certificate(s) of Insurance and Original Policies shall indicate no modification, or change in insurance will be made without thirty (30) days written advance notice to Miami-Dade County c/o the Director of the Risk Management Division.

- (a) Worker's Compensation Insurance as required by Chapter 440, Florida Statutes.
- (b) Public Liability Insurance - on a Comprehensive basis, in an amount not less than \$500,000 per occurrence for bodily injury and property damage combined. Coverage shall include Products and Completed Operation, ~~Board~~Broad Form Property Damage and Contractual Liability. This coverage shall include those classifications as listed in Standard Liability— Insurance Manuals, which are applicable to the operation of the LESSEE in the performance of the contract.
- (c) Automobile Liability Insurance - covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$500,000 per occurrence for bodily injury and property damage combined.
- (d) Owner's Protective Liability Insurance - issued in the name of Miami-Dade County as sole insured, in amounts as indicated in b) above. This policy must be endorsed to indicate that any premium, whether deposit or final, shall be the sole obligation of the LESSEE or its contractor.
- (e) Completed Value Builder's Risk Insurance - on an "All Risk" basis in an amount not less than one hundred (100%) percent of the insurable value of the structure(s). The policy shall be in the name of Miami-Dade County and the LESSEE, and the Contractor as their interests may appear.
- (f) Property coverage on an "All Risk" basis in an amount not less than one hundred (100%) percent of the replacement cost of the ~~property~~Improvements, exclusive of foundation and infrastructure costs. Miami-Dade County must be shown as a Loss Payee with respect to this coverage A.T.I.M.A.

All insurance policies required above shall, be issued in companies authorized to do business under the laws of the State of Florida, and the Company must be rated no less than "B" as to management, and no less than Class "V" as to strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey. All insurance required by the ~~contract~~this LEASE Agreement must stay in force until final acceptance except, "Completed Value Builder's Risk" which may be dropped after substantial completion.

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The LESSEE shall furnish certificates of insurance and insurance policies to the County prior to commencing any operations under this ~~permit~~LEASE Agreement; which certificates shall clearly indicate that the LESSEE has obtained insurance, in the type, amount, and classifications, as required for strict compliance with this Section.

Compliance with the foregoing requirements as to the carrying of insurance shall not relieve the LESSEE from his liability under any other portion of this ~~permit~~LEASE Agreement.

Cancellation of any insurance or bonds, or non-payment by the LESSEE of any premium for any insurance policies or bonds required by this ~~permit~~LEASE Agreement shall constitute a breach of this ~~Permit~~LEASE Agreement. In addition to any other legal remedies, the County at its sole option, but subject to the notice and cure periods set forth in Articles XXI and XXX, may terminate this ~~permit~~LEASE Agreement.

#### **ARTICLE XXVII** **PERMITS, REGULATIONS, AND LICENSING** **COMPLIANCE WITH LAWS**

The LESSEE covenants and agrees that during the term of this LEASE Agreement the LESSEE will obtain, at its sole cost and expense, all necessary permits and approvals from applicable governmental authorities necessary for the construction, use and operation of the DEMISED PREMISES (other than any permits in connection with the use and/or operation of the Library Space which shall be the responsibility of the County) and that all uses of the ~~demised premises~~DEMISED PREMISES (other than the Library Space) will be in conformance with all applicable laws, ordinances, and resolutions, including all applicable zoning regulations. The DEMISED PREMISES are subject to various permits and approvals by the appropriate governing bodies. The LESSEE shall have in place continuously and throughout the term of this LEASE, all required licensing by the State of Florida departments or agencies of the United States for the specific use as set forth in this LEASE Agreement. Failure of the LESSEE to secure all necessary zoning approvals and necessary permits and approvals within the time-period ~~act~~set forth in Article XXI shall entitle the LESSOR to cancellation of this LEASE in the event of failure by the LESSEE to remedy these deficiencies within thirty (30) days of receipt of written noticed the LESSOR of such default, or such other time as agreed to by the Parties. Failure of the LESSEE to secure and to maintain at all times required licensing shall entitle the LESSOR to ~~automatic cancellation~~terminate this LEASE, subject to the notice and cure periods set forth in Article XXX of this LEASE Agreement.

#### **ARTICLE XXVIII** **FEDERAL, STATE AND COUNTY LAWS,** **REGULATIONS AND REQUIREMENTS**

The LESSEE shall comply with applicable provisions of applicable Federal, State and County laws, regulations and rules, including but not limited to OMB A-122, OMB A-110, OMB A-21, and OMB A-133; the Energy Policy and Conservations Act (Pub. L. 94-163) which imposes mandatory standards and policies relating to energy efficiency; and all pertinent rules, requirements and regulations to which the County is subject by virtue of its ownership of the DEMISED PREMISES as of the date of this LEASE Agreement. If any provision of this

~~contract~~ LEASE Agreement conflicts with any applicable law or regulation, only the conflicting provision shall be deemed by the Parties hereto to be modified to be consistent with the law or regulation or to be deleted if modification is impossible. However, the obligation under this ~~contract~~ LEASE Agreement, as modified, shall continue and all other provisions of this ~~contract~~ LEASE Agreement shall remain in full force and effect.

The LESSEE shall comply with all applicable standards, orders, or regulations issues pursuant to Section 306 of the Clean Air Act of 1970 (42 U.S.C. 1857 h), as amended; the Federal Water Pollution Control Act (33 U.S.C. 1251), as amended; Section 508 of the Clean Water Act (33 U.S.C. 1368); Environmental Protection Agency regulations (40 CFR Part 15); and Executive Order 11738.

**Permits and Zoning Issues** - The LESSEE shall be responsible for guaranteeing that all uses of the Property ~~DEMISED PREMISES (other than the Library Space)~~, including but not limited to any improvements made to said Property, ~~must be~~ DEMISED PREMISES, are in compliance with all written State and local rules, regulations, and zoning requirements.

Any permits or zoning changes which may be required shall be the responsibility of the LESSEE.

#### **ARTICLE XXIX INSPECTION BY THE LESSOR**

The LESSOR may make periodic inspections of all the ~~LEASED premises~~ DEMISED PREMISES and equipment to determine if such are being maintained in a neat and orderly condition. The LESSEE shall be required to make any improvements in cleaning or maintenance methods required by the LESSOR. Such periodic inspections may also be made to determine whether the LESSEE is operating in compliance with the terms and provisions of this LEASE Agreement.

#### **ARTICLE XXX LEASEHOLD FINANCING**

1. **Right to Mortgage.** ~~LESSEE and LLLP~~ shall have the right to grant such mortgages of ~~its~~ their respective interest in this LEASE Agreement or the Sublease, as applicable, as may be contemplated by the ~~LHHC application~~ Low Income Housing Tax Credit and SAIL loan applications filed by LESSEE, in form and content acceptable to the LESSOR, acting through the County Manager (~~each, a "Leasehold Mortgage" and collectively, the "Leasehold Mortgages"~~) to lenders and, in connection therewith, to collaterally assign this LEASE ~~or the Sublease, as applicable,~~ to such lenders; provided, however, that in no event shall LESSOR ever be required to execute any such mortgage, or any note secured thereby or any other obligation securing any such note, or to subordinate LESSOR'S fee interest in the ~~Premises~~ DEMISED PREMISES or any portion thereof to the lien of any such mortgage. LESSEE shall deliver to LESSOR a written notification containing the name of the ~~mortgagee (holder of each Leasehold Mortgage (each, a "Leasehold Mortgagee" and collectively the "Leasehold Mortgagees")~~ and the ~~addresses~~ address(es) to which notices to the ~~Leasehold Mortgagee~~ Mortgagees are to be sent, within five (5) business days after LESSEE'S grant of a Leasehold mortgage. ~~LESSOR consents~~

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~~to the leasehold mortgage, financing of \$3 million in favor of the Florida Housing and Finance Corporation and construction (not permanent) leasehold mortgage financing Mortgage. LESSOR hereby consents to the Leasehold Mortgages set forth on Exhibit E attached hereto.~~

2. **Consent Required for Cancellation, Surrender and Amendment.** No cancellation, surrender or modification of this LEASE Agreement by agreement between LESSOR and LESSEE shall be effective as to any Leasehold Mortgagee, unless consented to in writing by such Leasehold Mortgagee. Notice of any such consent by each Leasehold Mortgagee shall be delivered to the LESSOR pursuant to the provisions of Article XXIII.

3. **Default Notice.** LESSOR, upon providing LESSEE with any notice of (i) default ~~or a potential or threatened default~~ under this LEASE Agreement, or (ii) termination of this LEASE Agreement, shall at the same time provide a copy of such notice to Investor Limited Partner and to every Leasehold Mortgagee of whom it has knowledge pursuant to notice from LESSEE provided in accordance with this Article. No such notice by LESSOR to LESSEE shall be deemed to have been duly given unless and until a copy thereof has been so provided to Investor Limited Partner and to every Leasehold Mortgagee in the manner specified in Article XXIII. From and after the date such notice has been given to Investor Limited Partners and/or a Leasehold Mortgagee, such Leasehold Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or causing the same to be remedied, as is given LESSEE after giving of such notice to LESSEE, plus, in each instance, the additional periods of time specified in Sections 4, 5 and 6 of this Article XXX. Lessor shall accept such payment or performance by or at the instigation of Investor Limited Partner or such Leasehold Mortgagee, as if the same had been done by LESSEE. LESSEE authorizes Investor Limited Partner and any and each Leasehold Mortgagee to take any such action at the Investor Limited Partner's or such Leasehold Mortgagee's option and does hereby authorize entry upon the Premises by the DEMISED PREMISES by Investor Limited Partner and/or any Leasehold Mortgagee for such purpose. [LIMIT TO CITIBANK AND FHFC, OR ALL MORTGAGEES?]

4. **Notice to Leasehold Mortgagee and Investor Limited Partner.** Anything contained in this LEASE Agreement to the contrary notwithstanding, if any default shall occur which entitles LESSOR to terminate this LEASE Agreement, LESSOR shall have no right to terminate this LEASE Agreement unless, following the expiration of the period of time given LESSEE to cure such default, LESSOR shall notify every Leasehold Mortgagee and Investor Limited Partner, of LESSOR's intent to so terminate at least sixty (60) days in advance of the proposed effective date of such termination (the "Mortgagee Cure Period"). The provisions of Section 5 of this Article XXX shall apply if, during such Mortgagee Cure Period, any Leasehold Mortgagee or Investor Limited Partner:

(a) notifies LESSOR of such Leasehold Mortgagee's or Investor Limited Partner's desire to cure the default described in such notice; and

(b) pays or causes to be paid all Base Rent and other payments then due and in arrears as specified in the notice given to such Leasehold Mortgagees and Investor Limited Partner and which may become due during such Mortgagee Cure Period; and

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(c) complies or in good faith, with diligent efforts, commences to comply with all non-monetary requirements (i.e., all obligations other than the payment of Base Rent and other amounts due LESSOR under this LEASE Agreement) of this LEASE Agreement then in default and reasonably susceptible of being complied with by such Leasehold Mortgagee or Investor Limited Partner.

5. **Procedure on Default.** If LESSOR shall elect to terminate this LEASE Agreement by reason of any default of LESSEE, and a Leasehold Mortgagee or Investor Limited Partner shall have proceeded in the manner provided for by Section 4 of this Article XXX, LESSOR will enter into a new lease for the DEMISED PREMISES with such Leasehold Mortgagee or Investor Limited Partner, for the remainder of the term, effective as of the date of such termination, at the same Base Rent and subject to the same covenants and agreements, terms, provisions and limitations herein contained, provided that (i) LESSOR receives the Leasehold Mortgagee's written request for such new lease within the Mortgagee Cure Period and such written request is accompanied by payment to LESSOR of all amounts then due and owing to LESSOR under this LEASE Agreement, and (ii) within ten (10) days after the delivery of an accounting therefor by LESSOR, such Leasehold Mortgagee or Investor Limited Partner pays any and all costs and expenses, including reasonable counsel fees, court costs and disbursements made by LESSOR in connection with any such default and termination as well as in connection with the execution and delivery of the new lease, less the net income collected by LESSOR from the DEMISED PREMISES subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Base Rent thereafter becoming due under the new lease.

6. **Extension of Cure Period.** If, within the Mortgagee Cure Period more than one request for a new Lease shall have been received by LESSOR for the Demised Premises, priority shall be given (regardless of the order in which such request shall be made or received) to the Leasehold Mortgagee or investor limited partner making such a request in order of their priority of interest in said Demised Premises. Simultaneously with the making of such new Lease, the party obtaining such new Lease and all other parties junior in priority of interest in the Demised Premises shall execute, acknowledge and delivery such new instruments, including new Mortgages and a new Sublease, as the case may be, and shall make such payments and adjustments among themselves as shall be necessary and proper for the purpose of restoring to each of such parties as nearly and reasonably possible, the respective interest and status with respect to the Demised Premises which was possessed by the respective parties prior to the termination on this LEASE Agreement.

7. **Failure to Extend Placed in Service Date.** The provisions of this Article XXX shall not apply to any termination of this LEASE Agreement pursuant to the last sentence of Article VIII, resulting from Florida Housing Finance Corporation's failure to grant an extension of the placed-in service date from December 31, 2008 to December 31, 2009, with respect to the Residential Units.

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**ARTICLE XXXI**  
**REPORTS AND DOCUMENTS**

The LESSEE shall provide the following reports and documents to the LESSOR:

**Certificate of Insurance** - To be received by the County as specified in Article XXVI of this Contract.

**Construction/Renovation Schedule (Capital Projects)** - The LESSEE shall provide a schedule detailing the anticipated time-line for the completion of the capital project(s) within ten (10) days of execution of this LEASE Agreement and shall update such schedule on a quarterly basis until all expected construction is completed. If there is any renovation in the future, a similar schedule must be provided within the same time frame.

**ARTICLE XXXII**~~**ARTICLE XXXI**~~  
**BONDS**

Bonds: The LESSEE, at its own cost and expense, shall obtain and deliver or cause to be obtained and delivered by its general contractor to the County, not less than ten (10) days prior to the anticipated ~~Commencement~~commencement of construction, a completion and payment bond in favor of the County, the LESSEE, ~~the General Contractor~~and any Leasehold Mortgagees as security for the faithful performance of the ~~Contract~~construction contract and for the payment of all persons performing labor or furnishing materials in connection therewith. The bond shall be for the full amount of contemplated construction work and shall remain in effect until the completion of any payment for the construction work and shall remain in effect until the completion of any payment for the improvements, free and clear of all claims of mechanics, laborers and ~~material men~~materialmen. The bonds shall have as the surety thereon only such surety company or companies as are acceptable to the County and are authorized to write bonds of such character and amount in accordance with the following qualifications:

(a)-(a) All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest (1986 or later) edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

<u>Bond Amount</u>	<u>Best Rating</u>
\$500,001 to 1,500,000	B-V
1,500,001 to 2,500,000	A-VI
2,500,001 to 5,000,00	A-VII
5,000,000 to 10,000,000	A-VIII
Over 10,000,000	A-IX

(b)-(b) On contract amounts of \$500,000 or less the bond provisions of Section 287.0935, Florida Statute (1985) shall be in effect and surety companies, not otherwise qualifying with this paragraph may optionally qualify by:

~~7-1.~~ Providing evidence that the Surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

~~8-2.~~ Certifying that the Surety is otherwise in compliance with the Florida Insurance Code.

~~9-3.~~ Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under ss. 31 U.S.C. 9304-9308.

Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds," published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

~~(c)~~ For contracts in excess of 500,000 the provision of Section B will be adhered to plus the company must have listed for at least three consecutive years, or holding a valid Certificate of Authority of at least 1.5 million dollars and on Treasury List.

~~(d)~~ Surety Bonds guaranteed through U.S. Government Small Business Administration or Contractors Training and Development Inc. will be acceptable.

~~(e)~~ The attorney-in-fact or the officer who signs a contract bond for a surety company must file with such bond a certificate copy of his power of attorney authorizing him to do so, the contract bond must be ~~counter signed~~ countersigned by the surety's resident Florida agent.

Florida Statutes ~~225.05~~255.05 provide for the following conditions to be made in all Contract Bonds relating to public projects. The same conditions shall be just as applicable for ~~Cash~~cash used in lieu of the bond. "A claimant, except a laborer, who is not in privity with the Principal and who has not received payment for his labor, materials, or supplies shall, within forty-five (45) days after beginning to furnish labor, materials, or supplies for the prosecution of the work, furnish the Principal with a notice that he intends to look to the bond for protection. A claimant who is not in privity with the Principal and who has not received payment for his labor, materials, or supplies shall, within ninety (90) days after performance of the labor or after complete delivery of the materials or supplies, deliver to the Principal or the Surety written notice of the performance of the labor or delivery of the materials or supplies and of the non-payment. No action for the labor, materials, or supplies may be instituted against the Principal unless both notices have been given. No action shall be instituted against the Principal or the Surety on the bond after one (1) year from the performance of the labor or completion of delivery of the materials or supplies.

The Contract Bond or ~~Cash~~cash used in lieu of the bond shall remain in force for one (1) ~~years~~year from the date of final acceptance of the work to protect the County against losses resulting from latent defects in materials or improper performance of work under the contract. If the County exercises its ~~portion~~option to ~~extend~~extend the ~~Contract~~contract period by one-year, provided the LESSEE maintains the same prices as in the first contract period, the Contract Bond or ~~Cash~~cash used in lieu of the bond shall remain in force for one (1) ~~years~~year from the completion date of the extended contract period, to protect the County against losses resulting

from latent defects in materials or improper performance of work under the Contract. The Cost ~~Who pays for the extended coverage?~~ ~~[STET]~~ The cost of the bond(s) shall be included in the Total Amount Bid. No separate payment for the cost of said bond(s) shall be made by the County. The required bond(s) shall be written by or through and countersigned by a licensed Florida agent of the surety insurer pursuant to Section 624.425 of the Florida Statutes.

In the event the Surety on the bond(s) given by the LESSEE becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in its State of domicile or the State of Florida suspended or revoked as provided by law, or in the event of cancellation of the ~~required~~ required bonds by Surety, the County shall withhold all payments until the LESSEE shall give good and sufficient bond(s) in lieu of the bond(s) executed by such Surety.

#### **ARTICLE XXXIII****ARTICLE XXXII** **NON-DISCRIMINATION**

**Affirmative Action Plan** - The LESSEE shall report to the County information relative to the equality of employment opportunities whenever so requested by the County.

**Assurance of Compliance with Section 504 of the Rehabilitation Act** - The LESSEE shall report its compliance with Section 504 of the **Rehabilitation Act** whenever requested by the County.

**Civil Rights** - The LESSEE agrees to abide by Chapter 11A, Article IV, Sections 2 and 28 of the Code of Miami-Dade County, as amended, applicable to non-discrimination in employment and abide by Executive Order 11246 which requires equal employment opportunity.

Where applicable the LESSEE agrees to abide and be governed by Titles VI and VII, Civil Rights Act of 1964 (42 USC 2000 D&E) and Title VIII of the Civil Rights Act of 1968, as amended, and Executive Order 11063 which provides in part that there will be no discrimination of race, color, sex, religious background, ancestry, or national origin in performance of this LEASE Agreement, in regard to persons served, or in regard to employees or applicants for employment or housing; it is expressly understood that upon receipt of evidence of such discrimination, the County shall have the right to terminate said Agreement.

The LESSEE also agrees to abide and be governed by the Age Discrimination Act of 1975, as amended, which provides; in part, that there shall be no discrimination against persons in any area of employment because of age. The LESSEE agrees to abide and be governed by Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794, which prohibits discrimination on the basis of handicap. The LESSEE agrees to abide and be governed by the requirements of the Americans with Disabilities Act (ADA).

#### **ARTICLE XXXIV****ARTICLE XXXIII** **WRITTEN AGREEMENT**

This LEASE Agreement contains the entire agreement between the Parties hereto and all previous negotiations leading thereto.



IN WITNESS WHEREOF, the LESSOR and LESSEE have caused this LEASE Agreement to be executed by their respective and duly authorized officers the day and year first above written.

Villa Aurora, LLLP, a Florida limited liability  
limited partnership

(CORPORATE SEAL)

By: Villa Aurora, Inc., a Florida, non-for-  
profit corporation, its general partner

A FLORIDA NOT-FOR-PROFIT  
ORGANIZATION

ATTEST Witnesses:

Print Name:

By: \_\_\_\_\_  
Stephanie Berman, President  
LESSEE

Print Name:

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
George Burgess  
County Manager  
LESSOR

Approved as to form and legal sufficiency: \_\_\_\_\_

**EXHIBIT A**

Lot 7,8, 9 and 10, in Block. 19, less the North 10 feet thereof, of LAWRENCE ESTATE LAND COMPANY SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 2 at Page 46, of the Public Records of Dade County, Florida, a/k/a ESPERANZA CENTER located at 1398 S.W. 1 Street, Miami, Florida.

**Esperanza Center Villa Aurora — PROJECT TIMELINE\***

**Exhibit B**

February 15, 2005 - Apply to FHFC for Tax Credit Financing

March 18, 2005 - Preliminary Scoring

April 26, 2005 - Cure Period Closes

May 25, 2005 - Final Scores

August, 2005 - Board Approval

September, 2005 to April 2006 July 2007 - Underwriting Process (and permitting) by Florida Housing Finance Corporation for SAIL Loan and LIHTC

May 2006 June/July 2007 - Project Approval by Board and Permitting

June 2006 October 2007 - Commence Commencement of Construction (14 estimated to be approximated 18 months construction)

Not later than December 2007 31, 2009 - Certificate of Occupancy

No later than October - December 2007 2009 - Residents move in

\* All dates presume 2005

\*All dates are estimates only.

**EXHIBIT C**

Sketch of Library Space

[To be attached upon completion of Improvements.]

**EXHIBIT D**

**Form of Carrfour Guaranty**

## EXHIBIT E

### Leasehold Mortgages or other Encumbrances in the Following Priority

1. \$5,000,000 Construction Loan – Citibank
2. \$3,000,000 SAIL – Florida Housing Finance Corporation—funding; if funding is not obtained from Florida Housing Finance Corporation until the 2006 cycle, all dates to be moved up accordingly, in accordance with Article VIII, and related Land Use Restriction Agreement
3. \$899,489 HOME – Miami-Dade County
4. \$375,000 SHP – Miami-Dade County
5. up to \$1,000,000 – City of Miami
6. \$50,000 – Enterprise
7. \$164,356 FEMA – Villa Aurora, Inc.
8. \$500,000 AHP – Federal Home Loan Bank, to be secured by a Leasehold Mortgage or Restriction Covenant and Retention Agreement
9. Extended Use Agreement

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**EXHIBIT F**

**Sub-Sublease Agreement (as attached)**

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## **SUB-SUBLEASE AGREEMENT**

**THIS SUB-SUBLEASE AGREEMENT** (this "Sub-Sublease") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by and between VILLA AURORA, LLLP, a Florida limited liability limited partnership (f/k/a Villa Aurora, Ltd., a Florida limited partnership), as "Sub-Sublessor" and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, as "Sub-Sublessee".

### **WITNESSETH:**

**WHEREAS**, Sub-Sublessee, as "Lessor", and Villa Aurora, Inc. as "Lessee", entered into that certain Amended and Restated Lease Agreement dated \_\_\_\_\_, 2007 (the "Master Lease").

**WHEREAS**, Villa Aurora, Inc. as "Sublessor" and Villa Aurora, LLLP as "Sublessee" entered into a certain Sublease Agreement dated \_\_\_\_\_, 2007 (the "Sublease")

**WHEREAS**, a true, correct and complete copy of the Master Lease and the Sublease is attached hereto as Exhibit A and incorporated herein by reference; and

**WHEREAS**, in accordance with the Master Lease and the Sublease, Sub-Sublessor desires to sub-sublease to Sub-Sublessee, and Sub-Sublessee desires to sub-sublease from Sub-Sublessor, approximately 12,000 square feet of rentable area of the Demised Premises (as defined in the Master Lease) located on the first (1<sup>st</sup>) floor of the Building (as defined in the Master Lease), related administrative space and the Library Parking (as defined below), all as more particularly shown on the sketch attached hereto as Exhibit B (collectively, the "Sub-subleased Premises"), on the terms and provisions contained herein.

**NOW, THEREFORE**, the parties hereto hereby covenant and agree as follows:

1. **Sub-sublease Subject to Master Lease and Sublease.** Except as provided in this Sub-sublease: (i) this Sub-sublease and possession of the Sub-subleased Premises hereunder is and shall be expressly subject to all of the terms, covenants and conditions contained in the Master Lease and the Sublease, the terms and provisions of which, except as modified by this Sub-sublease, are incorporated herein by reference, and whenever the Master Lease and Sublease impose duties or obligations on the Lessee or Sublessee thereunder, except as provided in this Sub-sublease, the same duties and obligations shall be deemed to refer to Sub-Sublessee with respect to the Sub-subleased Premises, and Sub-Sublessee hereby expressly assumes and takes the Sub-subleased Premises subject to such duties and obligations; and (ii) except as set forth in this Sub-sublease, at all times after the Commencement Date, Sub-Sublessee covenants and agrees to observe and perform all of the terms, covenants, and conditions to be performed by the Lessee under the Master Lease which by their nature are imposed upon the party entitled to possession of the Sub-subleased Premises, and Sub-Sublessee further covenants and agrees, with respect to the Sub-subleased Premises, not to do anything which could result in a default or event of default under the Master Lease or cause the Master Lease to be terminated. Except as set forth herein, whenever a provision of the Master Lease requires or refers to Lessor's consent or approval, such provision (as incorporated herein) shall be deemed to require both Lessor's and Sub-Sublessor's consent or approval.

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2. **Use.** Sub-Sublessee shall use the Sub-subleased Premises only for the operation of a branch library and such other purposes consistent with the uses permitted under the Master Lease. Specifically, the operations of the Library Space shall be in accordance with Article XXV, Section 6 of the Master Lease Agreement.

3. **Term.** The term of this Sub-sublease (the "Sub-sublease Term") shall commence upon the issuance of a certificate of occupancy for the Building (the "Commencement Date") and shall expire at midnight on December 10, 2035 unless sooner terminated pursuant to the terms hereof (such date being hereinafter referred to as the "Expiration Date"). Notwithstanding the foregoing, subject to the provisions of Section 26 hereof, this Sub-sublease shall terminate immediately upon termination of the Master Lease for any reason whatsoever. The Sub-sublease Term may only be extended pursuant to the terms of this Sub-sublease.

4. **Extension Option.** Sub-Sublessee is hereby granted the option to extend this Sub-sublease for up to two additional periods, the first option to extend period running for thirty (30) years and the second option to extend period running for five (5) years on the same terms and conditions, except for the annual base rent payable, as set forth herein, or such lesser period of time as agreed to by the parties, by giving the Sub-Sublessor notice in writing at least ninety (90) days prior to the expiration of this Sub-sublease or any extension thereof. The annual base rent for the first 30-year extension period shall be negotiated and agreed upon between the parties after the issuance of the 90-day notice to extend, but in no event shall such rent exceed one-hundred and twenty percent (120%) of the Base Rent for the initial term. The annual base rent for the second 5-year extension period shall also be negotiated and agreed upon between the parties after the issuance of the 90-day notice to extend, but in no event shall such rent exceed one-hundred and fifty percent (150%) of the annual base rent of the first 30-year extension period.

5. **Rent.**

The annual base rent shall be One Dollar (\$1.00) per year (the "Base Rent"). Sub-Sublessor hereby acknowledges receipt of the Base Rent for the entire initial term.

6. **Maintenance**

The Sub-sublessee shall provide Maintenance to the Library Space in accordance with Article XXV, Section 4 of the Master Lease Agreement. Sub-Sublessee shall pay Sub-Sublessor, Sub-Sublessee's proportionate share of the "Maintenance Expenses", as defined in Article VII of the Master Lease. The Sub-Sublessee's proportionate share of the Maintenance Expenses shall be equal to a fraction, the numerator at which shall be equal to the total rentable square footage Library Space and the denominator of which shall be equal to the total rentable square footage of the entire Building. The Sub-sublessee shall pay the Sub-sublessor of the County's proportionate share of the estimated annual Maintenance Expenses on the first day of each calendar month from and after issuance of a Certificate of Occupancy for the Library Space. Provided, however, that the Sub-sublessee will not be responsible for the following Maintenance Expenses, and the Sub-sublessee will provide such services for itself: (i) Janitorial and custodial services; (ii) All

interior maintenance and repairs; and (iii) Maintenance of all central air-conditioning and heating system equipment, (jointly referred to as the "Library Maintenance").

**7. Method of Payment:**

Within ninety (90) days after the end of each calendar year, Sub-sublessor shall account to the Sub-sublessee with respect to the actual amount of the Maintenance Expenses for the preceding calendar year. Within thirty (30) days thereafter, any amount of owing by either party to the other to balance the required payment shall be made. Payment shall be made to the office of Sub-Sublessor set forth below, or to such other place as Sub-Sublessor may designate, without demand, setoff or deduction whatsoever, except as otherwise expressly set forth herein. Sub-Sublessee will have the right to audit the accounting described above and the time for payment shall be tolled pending the outcome of such audit. If any amounts owed hereunder are not paid within thirty (30) days after notice from Sub-Sublessor of such failure to pay, Sub-Sublessor shall have all rights and remedies available to Sub-Sublessor in the event of nonpayment of the Sub-sublease Rent.

**8. Sales Tax**

Sub-Sublessee shall pay all applicable sales tax due, if any, with respect to each payment of Sub-sublease Rent at the time of payment of such rental amount.

**9. Tenant Improvements; Alterations.** Sub-Sublessee shall not make any changes, alterations, additions or improvements to the structural components of Sub-subleased Premises or the Building or which are otherwise visible from the exterior of the Sub-subleased Premises without first obtaining the prior written consent of Sub-Sublessor. Any such changes, alterations, additions or improvements shall be (i) at Sub-Sublessee's sole cost and expense, and (ii) subject in all respects to any provisions of the Master Lease which relate to making changes, alterations, additions or improvements to the Demised Premises. The interest of Sub-Sublessor and Lessor in the Sub-subleased Premises and the Building shall not be subject in any way to any liens, including construction liens, for improvements to or other work performed in the Sub-subleased Premises by or on behalf of Sub-Sublessee. Sub-Sublessee shall have no power or authority to create any lien or permit any lien to attach to the present estate, reversion or other estate of Sub-Sublessor or Lessor in the Sub-subleased Premises or in the Building, and all mechanics, materialmen, contractors, artisans and other parties contracting with Sub-Sublessee or its representatives or privies as to the Sub-subleased Premises or any part thereof are charged with notice that they must look to the Sub-Sublessee to secure payment of any bill for work done or material furnished or for any other purpose during the Sub-subleased Term. These provisions are made with express reference to §713.10, Florida Statutes. Notwithstanding these provisions, Sub-Sublessee covenants and agrees not to permit any judgment, attachment and/or lien to be filed against the Sub-subleased Premises; provided however, that the Sub-Sublessee shall have the right to contest the validity thereof. The Sub-Sublessee shall, within thirty (30) days, pay any and all judgment decrees rendered against the Sub-Sublessee, following the conclusion of such legal processes, with all proper costs and charged, and shall cause any such liens to be released of record.

**10. Compliance With Laws; Licenses and Permits.** During the Sub-sublease Term, Sub-Sublessee will promptly comply with all applicable laws, ordinances, guidelines, codes,

rules, regulations and requirements, whether of federal, state, or local origin arising from or pertaining to Sub-Sublessee's use or occupancy of the Sub-subleased Premises (the "Laws"). Sub-Sublessee acknowledges that Sub-Sublessor has made no inquiries about and makes no representations (express or implied) concerning whether Sub-Sublessee's proposed use of the Sub-subleased Premises is permitted under applicable Laws, including applicable zoning laws.

**11. Construction of Sub-subleased Premises.** Sub-Sublessor shall construct the Sub-subleased Premises (a one-story storefront Library Space (as defined and further described in the Master Lease), of approximately 12,000 contiguous square feet within which the Miami-Dade Public Library System shall operate a branch library), subject to the conditions set forth herein and in the Master Lease and the Sublease. Sub-Sublessor shall construct and provide: (1) the Library Parking, at no cost to library patrons; (2) a separate library entrance; and (3) separate delivery access sufficient to accommodate library delivery vehicles. Sub-Sublessor shall not commence construction of the Library Space without first obtaining Sub-Sublessee's written approval of the site plan and exterior plan of the Library Space, which approval shall not be unreasonably withheld. Sub-Sublessor agrees to construct the Library Space consistent with the requirements of federal, state and local law, including but not limited to the requirements contained in the Florida Building Code and Americans with Disabilities Act.

Sub-Sublessor agrees to fully construct, partition, and prepare the Library Space in accordance with the plans and specifications prepared by Sub-Sublessor's architect, and approved by the Sub-Sublessee, which approval shall not be unreasonably withheld. Sub-Sublessor, based upon the Sub-Sublessee's Interior Design Plan (as defined in the Master Lease), further agrees to turn over to the Sub-Sublessee the Library Space ready for immediate occupancy, as more fully set out in Article XXV of the Master Lease. Consistent with the Sub-Sublessee's Interior Design Plan, Sub-Sublessor shall:

- a. Fully partition and paint the interior of the Library Space;
- b. Furnish and install all interior doors and interior finished (commercial carpet and paint);
- c. Furnish and install a finished ceiling, including all overhead lighting fixtures;
- d. Furnish and install an independent fully functional HVAC air conditioning system for the Library Space;
- e. Furnish and install all safety devices required by the Florida Building Code or other applicable laws, rules, or regulations, including but not limited to: all fire alarms, sprinkler systems, fire extinguishers, and exit signs;
- f. Furnish and install wiring and equipment needed by the Library Space for electric, data communication and connectivity to the Library's Wide Area Network, telephone, and cable service; and
- g. Furnish and install separate electric and water use meters for the Library Space.

Sub-Sublessor shall undertake the interior improvements described in this Section only upon submission by the Sub-Sublessee, in writing, of the Interior Design Plan. Any and all interior construction undertaken by Sub-Sublessor and described in this section shall be in strict compliance with the Interior Design Plan. Prior to construction, Sub-Sublessor shall approve all design plans and construction documents, as allowed by Article XXV.7 of the Master Lease, which approval shall not be unreasonably withheld.

12. **Assignment or Subletting.** Sub-Sublessee shall not assign this Sub-sublease or sublet the Sub-subleased Premises or any part thereof, nor permit the use or occupancy of the Sub-subleased Premises or any part thereof by any third party, without first obtaining the written consent of Sub-Sublessor. Sub-Sublessor agrees not to withhold unreasonably its consent. In the event of any assignment or sublease whatsoever made by Sub-Sublessee, Sub-Sublessee shall remain fully liable for the payment and performance of Sub-Sublessee's obligations under this Sub-sublease and nothing contained in this Sub-sublease, including, but not limited to, acceptance by Sub-Sublessor of any rent from Sub-Sublessee or any assignee of Sub-Sublessee, shall be deemed a waiver of such liability. If consent is once given by Sub-Sublessor to the assignment of the Sub-sublease or sublease of the Sub-subleased Premises or any interest therein, Sub-Sublessor shall not be barred from subsequently refusing to consent to any further assignment or sublease.

13. **Insurance.** It is understood and agreed that Sub-Sublessor is maintaining fire and extended coverage on the Building only and does not cover any sub-subleasehold improvements to the Library Space of Sub-subleased Premises (whether constructed by Sub-Sublessor or Sub-Sublessee) nor does such insurance cover any personal property or fixtures of Sub-Sublessee (such sub-subleasehold improvements, personal property and fixtures of Sub-Sublessee being hereinafter collectively referred to as "Sub-Sublessee Property"). Sub-Sublessee shall be responsible for insuring the Sub-Sublessee Property, and Sub-Sublessor shall have no liability or obligation with respect to any damage or destruction of any such Sub-Sublessee Property from any cause whatsoever. All proceeds of insurance maintained by Sub-Sublessor shall be paid in the manner set forth in the Master Lease.

14. **Default: Remedies.**

a. The occurrence of any one or more of the following events shall constitute an Event of Default under this Sub-sublease by Sub-Sublessee:

i. If Sub-Sublessee shall fail to pay Sub-sublease Rent or any other sum due hereunder within five (5) days after the same becomes due and payable;

ii. There is an assignment, sublease or other transfer of this Sub-sublease or Sub-Sublessee's rights hereunder without the consent of Sub-Sublessor (except as specifically permitted herein); or

iii. If Sub-Sublessee shall fail to perform or observe any other term, condition or provision of this Sub-sublease to be performed or observed by Sub-Sublessee within thirty (30) days from notice of such default by Sub-Sublessor; provided, however, that if the

default is not susceptible of cure within such thirty (30) day period, there shall be no default hereunder so long as Sub-Sublessee is diligently prosecuting a cure of the default..

b. Upon the occurrence of any Event of Default, Sub-Sublessor shall have the option to pursue any one or more of the remedies provided in Article XXI of the Master Lease as though Sub-Sublessor was the "Lessor" thereunder and Sub-Sublessee was the "Lessee" thereunder, all of such remedies being hereby incorporated by this reference.

c. No payment by Sub-Sublessee or receipt by Sub-Sublessor of any lesser amount than the amount stipulated to be paid hereunder shall be deemed other than on account of the earliest stipulated Base Rent, Additional Rent or other sums due under this Sub-sublease, nor shall any endorsement or statement on any check or letter be deemed an accord and satisfaction, and Sub-Sublessor's right to recover the balance due or to pursue any other remedy available to Sub-Sublessor shall not be limited thereby.

d. The remedies provided in this Sub-sublease or presently or hereafter existing at law or in equity shall be cumulative and concurrent, and may be exercised as often as occasion therefore shall occur. No single or partial exercise by Sub-Sublessor of any remedy shall preclude any other or further exercise of that remedy or any other remedy.

15. **Notice.** Any notice to be given under this Sub-sublease shall be in writing and shall be sent by hand delivery, by next business day delivery via a national delivery service that provides proof of delivery or refusal to accept delivery such as Federal Express, or by registered or certified U.S. mail, return receipt requested, postage prepaid, addressed to the parties at their respective addresses as stated herein. Notices shall be effective on the date of hand delivery, one (1) business day after deposit with a national courier service or three (3) days after deposit in the U.S. Mail. Inability to deliver due to change of address for which no notice was given or refusal to accept delivery shall be deemed delivery hereunder. Each party shall have the right to designate by notice in writing any other address in the United States to which such party's notice is to be sent.

Notice to Sub-Sublessor: Villa Aurora, LLLP  
155 S. Miami Ave., Suite 1150  
Miami, Florida 33131  
Attn: Stephanie Berman, Interim President/CEO

With a copy to: Wincopin Circle LLP  
10227 Wincopin Circle, 8<sup>th</sup> Floor  
Columbia, Maryland 21044  
Attn: General Counsel

Notice to Sub-Sublessee: The County Manager

c/o Executive Director  
Miami-Dade Public Library System

111 N.W. First Street, Suite 2710  
Miami, Florida 33128

16. **Indemnification.** Sub-Sublessee shall and does hereby indemnify and hold harmless the Sub-Sublessor to the extent and within the limitations of Section 768.28, Florida Statutes (subject to the provisions of that Statute whereby the Sub-Sublessee shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000, or any claim or judgments or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$200,000) from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise solely as a result of the negligence of the Sub-Sublessee. However, nothing herein shall be deemed to indemnify the Sub-Sublessor from any liability or claim arising out of the negligent performance or failure of performance of the Sub-Sublessor or any unrelated third party.

The Sub-sublessor shall protect, defend, using attorneys reasonably acceptable to the Sub-sublessee and hold the Sub-sublessee and its officers, agents, and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs, and expert fees, in connection with administrative hearings and litigation through all levels of trial and appellate proceedings), of any nature whatsoever arising out of or incident to this Sub-sublease Agreement and the use or occupancy of the DEMISED PREMISES or the acts or omissions of officers, agents, employees, contractors, subcontractors, licensees, or invitees of the Sub-sublessor regardless of where the injury, death or damage may occur, unless such injury, death, or damage (i) occurs in the Library Space after the date of issuance of the Certificate of Occupancy, in which event the County shall be liable therefore or (ii) is caused by the negligence of the Sub-sublessee. The Sub-sublessee shall give to the Sub-sublessor reasonable notice of any such claims or actions. The provisions of this Article shall survive the expiration or early termination of this Sub-sublease Agreement.

17. **Attorneys' Fees.** If there is any dispute between Sub-Sublessor and Sub-Sublessee regarding any of the provisions of this Sub-sublease Agreement, the prevailing party shall be entitled to collect its reasonable attorneys' fees from the non-prevailing party. This paragraph shall survive the expiration or termination of this Sub-sublease, by lapse of time or otherwise.

18. **Surrender.** On the date upon which the term hereof shall expire and come to an end, whether on the Expiration Date, by lapse of time, as a result of default or otherwise, Sub-Sublessee, at the Sub-Sublessee's sole cost and expense, shall quit and surrender the Sub-subleased Premises to Sub-Sublessor in the same condition as existed on the Commencement Date, reasonable wear and tear, casualty and condemnation, excepted. This paragraph shall survive the expiration or termination of this Sub-sublease. Upon the expiration of this Sub-sublease or if the Sub-Sublessor or the Lessor re-enters or retakes possession of the Sub-subleased Premises prior to the expiration of this Sub-sublease, Sub-Sublessor or the Lessor shall have the right, but not the obligation, to remove from the Sub-subleased Premises all personal property located therein belonging to the Sub-Sublessee, and either party may place the property in storage at the expense and risk of the Sub-Sublessee.

19. **Successors and Assigns.** This Sub-sublease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

20. **Sub-Sublessor's Right of Access.** Sub-Sublessor shall have the right to enter the Sub-subleased Premises, including entry for repairs or inspections, only upon reasonable advance notice to Sub-Sublessee at reasonable times except in the case of an emergency (in which case no notice shall be required). Sub-Sublessor shall not be liable for damages arising from access to the Sub-subleased Premises during emergencies.

21. **Parking.** Sub-Sublessor shall provide Sub-Sublessee with forty (40) parking spaces in the parking structure, or such greater number of parking spaces as is required by applicable state and local law, for use by Sub-Sublessee's patrons, at no cost (the "Library Parking").

22. **Master Lease and Sublease Performance.** Sub-Sublessor will not (i) amend, modify, assign or terminate, or cause to be amended, modified, assigned or terminated, the Master Lease or Sublease, (ii) commit any act or omission, which would results, directly or indirectly, in a termination of this Sub-sublease or otherwise materially and adversely affects any rights of Sub-Sublessee under this Sub-sublease or Sub-Sublessee's use and enjoyment of the Sub-subleased Premises.

23. **Casualty and Condemnation.** In the event of casualty or condemnation with respect to the Sub-subleased Premises that would allow the Sub-Sublessor under the Master Lease to terminate the Master Lease, Sub-Sublessee and Sub-Sublessor shall each have the right to terminate this Sub-sublease by notice to the other no later than ten (10) days prior to the date Sub-Sublessor must notify Lessor of Sub-Sublessor's election to terminate the Master Lease by reason of casualty or condemnation (as the case may be). Failing such notice (time being of the essence), Sub-Sublessee and Sub-Sublessor shall be deemed to have elected not to terminate this Sub-sublease.

24. **Peaceful Enjoyment.** Sub-Sublessee shall, and may peacefully have, hold and enjoy the Sub-subleased Premises, subject to the terms of this Sub-sublease and provided that Sub-Sublessee pays the rent and other sums herein recited to be paid by Sub-Sublessee and performs all of Sub-Sublessee's covenants and agreements herein contained or referenced.

25. **Statutory Notice Requirement.** Sub-Sublessee hereby acknowledges receipt of the following notice required by Chapter 88-285, Laws of Florida:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health unit.

26. **Counterparts; Fax Transmissions.** This Sub-sublease may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one and the same Sub-sublease. The parties agree that this Sub-sublease may be transmitted between them by facsimile machine. The parties intend that faxed signatures

constitute original signatures and that a faxed Sub-sublease containing the signatures (original or faxed) of all parties is binding on the parties.

27. **Miscellaneous.** The words "Sub-Sublessor" and "Sub-Sublessee" as used herein shall include the plural as well as the singular. This Sub-sublease grants Sub-Sublessee the right to possess and enjoy the use of the Sub-subleased Premises subject to the terms, conditions and provisions of this Sub-sublease, the Sublease, and the Master Lease and no estate is conveyed by this Sub-sublease. Nothing in this Sub-sublease shall be deemed to make or imply that Sub-Sublessor and Sub-Sublessee are partners or joint venturers. Sub-Sublessee shall not record this Sub-sublease or any short form memorandum hereof. The captions and headings contained in this Sub-sublease are for convenience only and do not in any way limit, amplify or modify the terms, conditions or provisions of this Sub-sublease.

28. **Governing Law.** This Sub-sublease shall be construed in accordance with and governed by the laws of the State of Florida.

29. **Merger and Modification Clause.** This Sub-sublease, and the documents expressly incorporated herein by reference, constitute the full and final understanding of the parties with respect to the subject matter described herein and supersede any and all prior agreements, written or oral, express or implied. This Sub-sublease may not be amended other than by a writing executed by the parties hereto. To the extent any provision of this Sub-sublease is held to be unenforceable by any court of competent jurisdiction, the unenforceability thereof shall not affect any other provision hereof, and such other provisions shall remain in full force and effect.

30. **Waiver.** Waiver by either party of any term, condition or provision hereof shall not be deemed to be a waiver of any subsequent breach of the same or any other term, condition or provision herein contained, nor shall any custom or practice which may grow up between the parties hereof be construed to waive or lessen the right of either party to insist upon the performance by the other party in strict accordance with the terms, conditions and provisions hereof.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties hereto have executed this Sub-sublease as of the date first written above.

Villa Aurora, LLLP, a Florida limited liability  
limited partnership

By: Villa Aurora, Inc., a Florida, non-for-  
profit corporation, its general partner

Witnesses:

\_\_\_\_\_  
Print Name:

By: \_\_\_\_\_  
Stephanie Berman, Interim President

SUB-SUBLESSOR

\_\_\_\_\_  
Print Name:

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
George Burgess  
County Manager

SUB-SUBLESSEE

Approved as to form and legal sufficiency: \_\_\_\_\_

**EXHIBIT A**

**Master Lease**

[attached hereto]

**EXHIBIT B**

**Sub-subleased Premises**

[Sketch to be attached upon completion of construction.]